

Anne Carrión Toale, Maglio Christopher & Toale, Sarasota, FL, for Petitioner.
Colleen Hartley, U.S. Department of Justice, Washington, DC, for Respondent.

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

vaccine. Respondent's Rep. at 2, 8 (ECF No. 20). More specifically, the Department of Health and Human Services "has concluded that [P]etitioner more likely than not suffered from neuropathy from a combination of diabetes and chronic kidney disease as opposed to GBS." *Id.* at 6. On July 21, 2020, this case was reassigned to my docket from Chief Special Master Corcoran. ECF No. 22. On the same day, I issued an order for Petitioner to file a status report on how he would like to proceed in light of Respondent's Rule 4(c) Report. *See* non-PDF Scheduling Order on 7/21/2020.

Petitioner filed the instant motion to dismiss his claim on August 14, 2020, stating "An investigation of the facts and science supporting his case has demonstrated to [P]etitioner that he will be unable to prove that he is entitled to compensation in the Vaccine Program" Pet'r's Mot. at 1, ECF No. 23.

II. Conclusion

To receive compensation in the Vaccine Program, a petitioner must prove either (1) that he suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to his vaccination, or (2) that he suffered an injury that was actually caused by a vaccine. *See* §§ 13(a)(1)(A) and 11(c)(1). Moreover, under the Vaccine Act, a petitioner may not receive a Vaccine Program award based solely on his claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent medical expert. § 13(a)(1). In this case, however, there is insufficient evidence in the record for Petitioner to meet his burden of proof. Petitioner's claim therefore cannot succeed and, in accordance with his motion, must be dismissed. § 11(c)(1)(A).

As such, **IT IS ORDERED THAT,**

Petitioner's Motion for A Decision Dismissing His Petition is **GRANTED** and the petition is hereby **DISMISSED. The Clerk shall enter judgment accordingly.**

Any questions regarding this Order may be directed to my law clerk, Sydney Lee, by telephone at 202-357-6347, or by email at Sydney_Lee@cfc.uscourts.gov.

IT IS SO ORDERED.

s/ Katherine E. Oler

Katherine E. Oler

Special Master